

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Utility Consumer's Action Network (UCAN),

Complainant,

vs.

Pacific Bell Telephone Company, AOL-Time
Warner, Inc., Does 1-100,

Defendant.

Case 02-07-044
(Filed July 24, 2002)

ORDER EXTENDING STATUTORY DEADLINE

Pub. Util. Code § 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending the deadline.

Case 02-07-044 was filed on July 24, 2002. In a telephone status conference on December 17, 2002, all parties agreed that they were working with Commission staff and that settlement discussions were progressing satisfactorily. They stated that the case might be resolved without the need for evidentiary hearings. Accordingly, the Utility Consumers' Action Network (UCAN) asked that the statutory deadline be extended from June 23, 2003, to December 31, 2003, and that a subsequent telephone status conference be conducted on June 17, 2003. The Commission granted the extension well in advance of the statutory deadline because the parties were developing a test of Internet calling procedures that are

the subject of this complaint. The test was to extend beyond June 2003 and was to be followed by evaluation of test results and further settlement discussions.

On April 30, 2003, and on June 4, 2003, further conferences were conducted, and the parties asked for further extensions to continue settlement discussions. The extensions were granted. On August 12, 2003, a Prehearing Conference (PHC) was conducted, at which time it became apparent that settlement prospects were not encouraging. The matter now has been set for hearing beginning on February 23, 2004, in San Francisco. The parties have agreed that a further extension of the statutory deadline is in order.

For good cause shown, we deem it prudent to extend the statutory deadline for final resolution of the case to ensure that no violation of Pub. Util. Code § 1701.2(d) occurs.

A final decision in this case should issue by July 2004. Therefore, we will extend the statutory deadline to July 31, 2004. If a final decision has not been issued by that time, a further order extending statutory deadline will issue.

Under Rule 77.7(f)(4) of the Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of draft decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, pursuant to Rule 77.7(f)(4), the otherwise applicable § 1701.2(d) statutory deadline for public review and comment is being waived.

Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Glen Walker is the assigned Administrative Law Judge for this proceeding.

Findings of Fact

1. This proceeding was initiated on July 24, 2002, as an adjudicatory proceeding.

2. At the request of the parties, the Commission extended the statutory deadline for resolving this case to December 31, 2003, so that the parties might conduct various tests and pursue settlement.

3. At a PHC on August 12, 2003, the parties reported that settlement had not been reached and requested a further extension of the statutory deadline.

4. The December 31, 2003 deadline will not be met, primarily because of settlement discussions and the unavailability of counsel for hearing until 2004. A hearing has been scheduled for February 23-27, 2004.

5. A final decision in this proceeding is to be issued on or before July 31, 2004.

Conclusions of Law

The 12-month deadline imposed by Pub. Util. Code § 1701.2(d), which has been extended to December 31, 2003, should be further extended to July 31, 2004.

IT IS ORDERED that the 12-month statutory deadline in this proceeding, which earlier was extended to December 31, 2003, is further extended to July 31, 2004.

This order is effective today.

Dated _____, at San Francisco, California.